

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 5

January 22, 2023

SUMMARY OF BILL: Enacts the *Youth Health Protection Act* (Act). Prohibits medical professionals from performing certain practices that would facilitate a minor's desire to present or appear in a manner that is inconsistent with the minor's biological sex. Subjects a medical professional who engages in such prohibited practices, with certain specified exceptions, to revocation of licensure, other disciplinary action by their licensing authority, and a civil penalty of up to \$1,000 per occurrence to be deposited in the General Fund.

Prohibits organizations with licensing or disciplinary authorities from taking action against a member of that organization who provides or receives guidance consistent with their conscience or religious belief. Allows for a parent, guardian, or custodian to withhold consent for treatment and mental healthcare intended to treat a minor's gender dysphoria or gender nonconformity.

Requires employees or agents of the state to notify a minor's parents or guardians in writing of any knowledge that a minor under the care or supervision of the state has exhibited symptoms of gender dysphoria, gender nonconformity, or otherwise demonstrates a desire to be treated in a manner incongruent with the minor's sex. Prohibits discrimination against a person who acts as a whistleblower of perceived violations of this Act.

Establishes cause for a civil action against a medical professional, healthcare entity, or other individual or entity responsible for a violation of the Act. Authorizes the Attorney General and Reporter (AG) to bring an action for an injunction to prevent or restrain a political subdivision from adopting or enforcing a measure that interferes with the professional conduct and judgment of a mental healthcare professional or counselor.

Prohibits state or political subdivision funds from being used for the performance of gender transition procedures or to support the administration of a governmental health plan or government-offered insurance policy offering gender transition procedures.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Pursuant to Tenn. Code Ann. § 63-1-169, hormone treatment for gender dysphoric or gender incongruent minors in Tanner state 1 development is prohibited.

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- The proposed legislation expands this prohibition to all minors through the completion of Tanner stage 5 development.
- Although the majority of the proposed legislation focuses on treatment of minors, Tenn. Code Ann. § 63-1-809 of the proposed Act states that funds from the state must not be used for gender transition procedures, regardless of age.
- There is not estimated to be a significant number of civil penalties assessed for performing prohibited procedures.
- This legislation will not significantly impact courts' caseloads.
- Any civil action brought against a medical professional, healthcare entity, or other individual or entity is assumed to be borne of a private party.
- The AG can bring any actions for an injunction utilizing existing personnel and resources.
- The prohibition of using state funds on gender transition procedures will have no fiscal impact to the Division of TennCare or Benefits Administration, as they do not currently cover these procedures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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